

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 32.2.401 department of)	AMENDMENT
livestock animal health division fees;)	
32.3.401 definitions; 32.3.435 testing)	
within the DSA; 32.3.455 brucellosis)	NO PUBLIC HEARING
tests to be reported)	CONTEMPLATED

TO: All Concerned Persons

1. The Department of Livestock proposes to amend the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m., March 31, 2017, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

32.2.401 DEPARTMENT OF LIVESTOCK ANIMAL HEALTH DIVISION
FEES (1) through (4)(b) remain the same.
(c) SV-7 - large animal cvi book ~~24.00~~ 32.00
(d) SV-7A - cvi convoy replica book ~~25.00~~ 38.00
(e) through (l) remain the same.

AUTH: 81-2-102, MCA

IMP: 81-1-102, 81-2-502, 81-2-704, MCA

REASON: These price increases are due to an increase in printing costs, postage and wages for handling, and data entry of these forms. Number of forms ordered will determine cost of forms; the less ordered the higher the cost.

SV-7 printing cost was \$5.57; new printing cost is \$8.48. Postage was at \$6.00 per book; the current estimate for postage is \$6.61. Handling fee was \$2.49 based on salary of \$14.95. The current salary is \$15.48. Data entry fee at 2 minutes was \$8.49 based on salary of \$14.95. The current ADT salary is \$14.00. The department issued 685 in 2016.

SV-7a printing cost was \$31.21; new printing cost is \$27.40. Postage was at \$6.00 per book. The current estimate for postage is \$6.61. Handling fee was \$2.49 based

on salary of \$14.95. The current salary is \$15.48. This is a field duplicate form; there is no data entry. The department issued 17 in 2016.

Approximately 439 large animal veterinarians will be affected.

The department proposes to amend the above-stated rule to ensure fees are commensurate with the costs as required by 81-1-102(2), MCA.

32.3.401 DEFINITIONS (1) through (5)(c) remain the same.

(6) "Brucellosis" is the contagious, infectious, and communicable disease of animals and humans caused by bacteria of the genus brucella, brucella abortus, brucella suis, or brucella melitensis, which are referred to in these rules collectively as brucella organisms or individually as a brucella organism.

~~(a) Brucellosis is also known as bangs disease and undulant fever.~~

(7) A "~~brucellosis surveillance herd management plan~~" (~~herd plan~~) brucellosis prevention and surveillance herd management agreement (management agreement) is a document outlining brucellosis mitigation and surveillance practices that will be or have been instituted by an individual designated surveillance area producer or DSA production unit.

(a) To reflect these practices, a "~~herd plan management agreement~~" may also outline variances to ~~some testing~~ Montana brucellosis requirements.

(b) A "~~herd plan management agreement~~" is mutually agreed upon by the producer and the Department of Livestock and should be reviewed ~~annually~~ every five years or earlier if requested by the herd owner or DOL.

(8) through (20) remain the same.

AUTH: 81-2-102, 81-2-103, 81-2-104, MCA

IMP: 81-2-101, 81-2-102, 81-2-103, 81-2-104, 81-2-105, 81-2-110, 81-2-111, MCA

REASON: The department proposes to remove unnecessary language in (6)(a). Other changes will make the language consistent with the current name of a "Management Agreement" and reflect that variances may be granted to requirements other than testing alone. For example, some producers do not have working facilities within the DSA and therefore must apply identification to heifer calves at the home ranch (outside of the DSA). Frequently, this is done at the time of calfhood vaccination.

In response to the Legislative Audit Division's recommendation to change the requirement for annual renewal, the department proposes to strike the word "annually" in (7)(b) and add language accordingly. Annual renewal of a Management Agreement is seldom necessary because management practices as outlined rarely change from year to year and can be difficult for the department to accomplish in a timely manner that is also convenient for the producer. Renewal of agreements at the request of the herd owner (or their representative), or the Department of Livestock due to changes in management practices, risk, epidemiologic investigations, or regulation is a more reasonable approach.

32.3.435 TESTING WITHIN THE DSA (1) through (2) remain the same.

(3) Other variances or exceptions to requirements will be considered on an individual basis by the administrator based on a ~~brucellosis surveillance herd management plan~~ brucellosis prevention and surveillance herd management agreement.

AUTH: 81-2-102, 81-2-103, 81-2-104, MCA

IMP: 81-2-101, 81-2-102, 81-2-103, 81-2-104, 81-2-105, 81-2-110, 81-2-111, MCA

REASON: The department proposes to amend this rule to make the language consistent with the definition in ARM 32.3.401(7).

32.3.455 BRUCELLOSIS TESTS TO BE REPORTED (1) The results of all brucellosis tests of Montana origin ~~made on~~ animals shall be reported ~~in writing on an approved form~~ by the person making such tests to the state veterinarian within seven days after test results have been determined.

AUTH: 81-2-102, MCA

IMP: 81-2-101 MCA

REASON: The department proposes to amend this rule to clarify that only brucellosis test results on Montana origin animals must be reported within seven days. Test results from the Montana Veterinary Diagnostic Laboratory are reported electronically in the Vetstar Animal Disease Diagnostic System (VADDS). Electronic or paper reporting of testing performed at an out-of-state laboratory would also be acceptable. A positive brucellosis result on any animal including an out-of-state animal performed in Montana is required to be reported per 81-2-107, MCA and ARM 32.3.104. Negative test results on out-of-state origin animals would not need to be reported.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to Department of Livestock, 301 N. Roberts St., Room 306, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., April 7, 2017.

5. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m. April 7, 2017.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a

public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 78 based upon approximately 439 large animal veterinarians and approximately 337 producers in the DSA.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State, February 27, 2017.